

**EXPANDED AGENDA**  
**Board of Adjustment, District 3**  
**Tuesday, September 8, 2015**  
**J.P. Courtroom, County Service Center**  
**126 W. 5<sup>th</sup> Street**  
**Benson, Arizona**

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6:30 P.M.      Call to Order

Roll Call (Introduce Board members, and explain quorum)

(Also explain procedure for public hearing, i.e., after Planning Director's Report, Applicant will be allowed 10 minutes; other persons will each have 5 minutes to speak and Applicant may have 5 minutes for rebuttal at end, if appropriate.)

Determination of Quorum

Approval of Previous Minutes

**NEW BUSINESS**

***Item 1 (Page 1) – Introduce Docket and advise public who the Applicants are.***

**Docket BA3-15-02 (Quail Ridge):**

The Applicant is requesting a Variance from Section 1812.06 of the Cochise County Zoning Regulations, which requires all RV and Mobile Home Parks to be surrounded with a 6-foot high opaque screening barrier. Specifically, the Applicant is requesting a waiver from this requirement for the north edge of the park, along Highway 82. The subject parcels, 106-06-014D & 106-06-023B, are located at 2207 N. Yucca Drive in Huachuca City, AZ.

**Applicant:** Gary Miller, representing Quail Ridge RV Park

- Call for PLANNING DIRECTOR'S PRESENTATION
  - Declare PUBLIC HEARING OPEN
    - 1) Call for APPLICANT'S STATEMENT
    - 2) Call for COMMENT FROM OTHER PERSONS (either in favor or against)
    - 3) Call for APPLICANT'S REBUTTAL (if appropriate)
  - Declare PUBLIC HEARING CLOSED
  - Call for BOARD DISCUSSION (may ask questions of Applicant)
  - Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
  - Call for MOTION
  - Call for DISCUSSION OF MOTION
  - Call for QUESTION
  - ANNOUNCE ACTION TAKEN (with Findings of Fact)
- 

**Call for Planning Director's Report**

**Call to the Public**

**ADJOURNMENT**



## **COCHISE COUNTY** **COMMUNITY DEVELOPMENT**

*"Public Programs...Personal Service"*

**TO:** Board of Adjustment, District 3  
**FROM:** Peter Gardner, Planner I  
**FOR:** Beverly Wilson, Planning Director  
**SUBJECT:** Minutes of the Regular Meeting of March 10, 2015  
**DATE:** April 7, 2015

**Members Present:**

Paul Brick, Chairman  
Helen Barnard

**Staff Present:**

Peter Gardner, Planner I  
Dora Flores, Zoning Administrator

**Applicants:**

Robert, Stephany, & Meghan Michel – Applicants

**Others Present:**

Wendy Bowsher	Michael Berryhill
David Lambert	Carey Starzinger
William Omann	Annette Buechel
Cathy Omann	Todd Parfitt
James Heckman	Billie Lynn Foraker
Amy Heckman	John Comaduran
Katherine Culkins	Diana Comaduran
Lorele Redmond	

*These minutes for the BA3 meeting held on March 10, 2015 are complete only when accompanied by the memoranda for said meeting dated March 10, 2015.*

**Call to Order / Roll Call**

Chairman Paul Brick called the meeting to order at 6:36 p.m. at the J.P. Courtroom at the County Service Center in Benson. He explained the procedures of the meeting to those present, and noted that he and Ms. Barnard were present and that as such, a quorum was established and business could proceed.

Ms. Barnard made a motion to approve the minutes of the December 10, 2014 regular meeting. Mr. Brick seconded the motion and the vote was 2-0 to approve the minutes of the December, 2014 meeting.

## **NEW BUSINESS**

### **Item 1**

#### **Docket BA3-15-01 (Bobby Joe's):**

The Applicant proposes to hold an outdoor concert on March 13 & 14, and requests temporary modification of the terms of an existing Variance that permits outdoor concerts at the venue once per month from May to September.

The subject parcels, 124-15-296, -297, & -298, are located at 3142 W. Meadowlark Lane in Benson, AZ.

Chairman Brick called for the Planning Director's presentation of the Docket. Planner Peter Gardner delivered the report noting that the request was a Staff error from the Applicant's previous request, illustrating the facts of the case utilizing photos, maps and other visual aids. He explained the proposed project and the nature of the requested Variance. He concluded by offering factors in favor and against approval. Ms. Barnard asked for clarification that the request was temporary, and would not alter the existing Variance. Mr. Gardner stated that this was the case.

Chairman Brick noted that the Applicant was present and invited him to make a statement.

Mr. Robert Michel of Benson explained his request. Mr. Michel noted to the Board that he had already cancelled a concert booked for April to comply with the Variance, but was unable to cancel the March concert due to an existing contract. He explained the charitable basis of the concert, noting that he made money on the events as well. Mr. Michel stated that when he purchased the bar in May, he was not aware of the restrictions, and if he had known, he would have complied. He explained that the offending February concert was to celebrate his fiftieth birthday, and that when requested, had turned down the volume from the band. Mr. Michel stated that he stopped the music at nine, despite believing he could go until eleven. He closed by thanking the individuals who came in support, and apologized to those in opposition, stating he was not trying to cause anyone trouble. Ms. Barnard asked Mr. Michel asked why the Sheriff's Department had to ask him to turn the sound down. Mr. Michel explained that he had a sound expert measure the sound, and found that the freeway was louder at his property line. He stated that he did not want to irritate the neighbors, but also wanted to satisfy his customers. Mr. Brick asked if they used the full capability of the sound system. Mr. Michel explained that they did not, and used what they felt was appropriate, which was 7,500 of the 14,000 available watts. He further explained that the current stage protected the nearby neighbors to the north much better than the prior stage, and explained how far the sound would have to travel south across the freeway to reach homes to the south. He also acknowledged that bass from the band may have traveled to the opponents' homes, but he was able to speak comfortably to others at the concert.

Chairman Brick then opened the Public Hearing.

Mr. Bill Omann identified himself as living directly across the freeway from the bar. Mr. Omann stated that the concert was advertised as a birthday party, but was now being identified as a benefit now that the County was involved. He wondered how the concert in February was permitted. He stated he was told by the Sheriff's Department that Mr. Michel had a permit. Mr.

Omann stated that he had spoken with Richard Searle prior to the previous concert, and claimed that the County was aware that the event was happening and “decided not to do anything about it”. He also expressed concern about the radio station, and asserted that the previous Variance was for the small band shell only. He asked why the hearing was being held as, “the Variance full well said that if people were going to go against the Variance, the Variance would be void.” He closed by expressing concern about the length of the sound checks performed prior to the concert.

Mrs. Cathy Omann spoke, stating that the previous Variance only applied to the existing band shell. She noted that sound attenuation measures were also required. She stated that the sound would come straight at her house, and that if any complaints were lodged then the Variance would be void. Mrs. Omann stated that she had spoken with Mr. Searle regarding the events. She stated that despite a well-insulated house, she had to turn up the television to not be stressed by the noise. She continued by stating that residents more than half a mile away could clearly make out the words. Mrs. Omann closed by stating that they had moved to the area to experience a quiet, rural lifestyle, that the freeway was not as noisy, and that the request was unreasonable, stating that there was no regard for neighbors at the previous concert. She asked for the request to be denied and the previous Variance to be revoked.

Mr. James Heckman spoke, explaining he lived a half mile to the north of the bar. He stated that it was very loud the first night, and asked for a reasonable limit on the noise, but was not asking for the request to be completely denied.

Ms. Catherine Culkins, owner of the stables across the freeway, spoke in support. She noted that her business occasionally made noise, and understood the financial concern. Ms. Culkins recommended approving the Variance, and considering future requests, stating that punishing his unwitting mistake by closing his business by denying the event was unreasonable.

Ms. Wendy Bowsher spoke, complaining about the early afternoon sound checks, stating that the noise “practically blew her off the road”. She stated that she called the Sheriff’s Department, and asked them to see if there was a permit for the event. Ms. Bowsher stated she called the Sheriff’s Department back an hour later, and was told that the event was permitted. She stated that she now understands that there were not permits, and stated that she was unsure if the Sheriff even checked or if they “just blew it off and lied”, and stated she did not appreciate that. Ms. Bowsher noted a discrepancy about a birthday party as opposed to a benefit and stated they “they lied again”, and stated that she was sure the Applicant was aware of all of the restrictions and knowingly violated them. She also reasserted that the previous Variance only applied to the band shell.

Mr. Todd Parfitt spoke, noting that he was the closest resident to the property, and the sound system. He stated that while he could hear the sound, it was not intrusive, and supported the request.

Ms. Billie Lynn Foraker spoke to support the request, identifying the Applicant as an asset to the community. She stated she was at the previous concert both days, and that normal conversation was possible during the performances without raising one’s voice. Ms. Foraker stated she could not hear the music when she pulled up at the property, and had trouble believing that anyone far away could hear or be disturbed by it. She asked neighbors to be more tolerant of the businesses.

Mr. Carey Starzinger spoke in support. He explained the sound tests he performed that showed negligible difference on his decibel meter between the music noise and the freeway noise over several minutes, taken at the edge of the property. He questioned the assertions that people across the freeway were hearing the music clearly.

Mr. David Lambert stated he lives well away from the site, but was present during the concert, and felt the sound level was reasonable. He disputed the assertion that sound checks were constant from 2:30 until 7:00, and that during the sound checks he was able to have a conversation near the stage. He did acknowledge that bass might have travelled across the highway, but felt that it was a reasonable level. Mr. Lambert closed by suggesting a limit on the wattage and times.

Ms. Meghan Michel, daughter of the Applicant, spoke, noting that during the concert she was on the south side of the freeway and was unable to hear the music.

There being no more speakers, Chairman Brick invited the Applicant to rebut.

Mr. Gardner first noted that contrary to assertions of several members of the public, there was no record of the existing Variance tying the music only to the existing bandstand.

Mrs. Stephany Michel stated that she understood the appeal of the quiet, but weighed that against the need for opportunity, business, and growth to sustain the community. She felt that the concert would help promote the community to future residents. Mr. Michel apologized to Mr. & Mrs. Omann regarding an assertion about the sound check, noting that on Saturday the Omann's were correct about the starting time. He apologized to neighbors for bothering them, stated he would be sure to keep the volume down, and explained that while the previous concert was a birthday party, it was also for charity, and admitted that for the current ad referencing the birthday party was an attempt to save money by reusing the same advertisement. Mr. Michel stated that the original plan was to have concerts from February through November, and offered to trade his last permitted show in September in exchange for the proposed show. He stated an intent to work with rather than against the community and asked to find a compromise. Mr. Michel stated that if the volume was too low, his customers would be dissatisfied. He expressed concern that a neighbor could repeatedly call to force the volume down until the concert was closed, whether they could actually hear it or not. He asked his neighbors to compromise as well. He stated that he had no intention of ever running to the eleven o'clock that he was permitted under the existing Variance out of respect for the neighbors. Mr. Brick and Ms. Barnard both expressed concern about how unusual sound travel may be.

Ms. Barnard expressed concern about the volume, and suggested setting a limit on the volume. She noted that she lives roughly one half mile from the railroad, explaining that sometimes they cannot hear the train at all, and other times it rattles the house, as an example of the differences in sound. Ms. Barnard asked if it would be possible to reposition the stage. Mr. Michel stated that it was not practical due to the time and cost involved. He offered compromises, and stated that he felt some people were not prepared to accept any compromise, and simply wanted him shut down. Ms. Barnard also expressed concern regarding the timing of the sound checks. Chairman Brick closed the Public Hearing and called for Staff Summation and Recommendation. Mr. Gardner explained that Staff recommended Approval of the requested

### Variance.

Chairman Brick made a motion to grant the Variances as recommended by Staff citing the factors in favor, Ms. Barnard offered an amendment with the Conditions that Sound Check not begin prior to 5:30 pm either day, and the sound system be limited to 7,500 watts. Mr. Brick accepted the amendments. Mr. Gardner noted that the previous Variance could not be revoked at this time, as that possibility was not publicly advertised. There was no further discussion, and Mr. Brick called for a vote.

The vote was 2-0 to approve the motion.

### **Planning Director's Report:**

Mr. Gardner offered a brief Director's Report informing the Board that there were no Dockets for the next month. The proposed Comprehensive Plan update was also discussed, along with dockets heard by the Planning Commission.

Ms. Barnard made a motion to adjourn. Mr. Brick seconded, and the meeting was adjourned at 8:02 p.m.



**Cochise County**  
**Community Development**  
**Planning, Zoning and Building Safety Division**  
*Public Programs...Personal Service*  
[www.cochise.az.gov](http://www.cochise.az.gov)

**MEMORANDUM**

**TO:** Cochise County Board of Adjustment, District 3  
**FROM:** Peter Gardner, Planner I  
**FOR:** Beverly Wilson, Planning Director  
**SUBJECT:** Docket BA3-15-01 (Bobby Joe's)  
**DATE:** February 26, 2015 for the March 10, 2015 Meeting

**APPLICATION FOR VARIANCE**

**Docket BA3-15-02 (Quail Ridge RV Park):**

The Applicant is requesting a Variance from Section 1812.06 of the Cochise County Zoning Regulations, which requires all RV and Mobile Home Parks to be surrounded with a 6-foot high opaque screening barrier. Specifically, the Applicant is requesting a waiver from this requirement for the north edge of the park, along Highway 82. The subject parcels, 106-06-014D & 106-06-023B, are located at 2207 N. Yucca Drive in Huachuca City, AZ. The Applicant is Gary Miller of the Quail Ridge RV Park.

**I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES**

**Site Size:** 36.98-acres  
**Zoning:** GB (General Business) and MH-36 (Multiple Household Residential)  
**Growth Area:** Category B (Community Growth Area)  
**Plan Designation:** Developing  
**Area Plan:** None  
**Existing Uses:** RV/Manufactured Home Park  
**Proposed Uses:** Same, but with 52 additional RV spaces

**Surrounding Zoning and Uses**

Relation to Subject Parcel	Zoning District	Use of Property
North	State Highway/RU-4	W Highway 82/Electric Substation/ Vacant Land
South	County Maintained Road/GB	W Oak Street/Service Garage/Single Family Residential
East	GB/MH-54/RU-4	Single Family Residential/Vacant Land
West	GB/RU-4	Single Family Residential

**Planning, Zoning and Building Safety**  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9278 fax  
1-877-777-7958  
[planningandzoning@cochise.az.gov](mailto:planningandzoning@cochise.az.gov)

**Highway and Floodplain**  
1415 Melody Lane, Building F  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9337 fax  
1-800-752-3745  
[highway@cochise.az.gov](mailto:highway@cochise.az.gov)  
[floodplain@cochise.az.gov](mailto:floodplain@cochise.az.gov)

## **II. SITE HISTORY**

- In 1984, the subject parcels were rezoned per Docket Z-84-28 from RU-4 to MH-54 for parcel 106-06-14C and to GB for 106-06-014D.
- In 1985, a 194-space RV park was established via permit #7175 on parcel 106-06-014C.
- Per Assessor's records in 1987, a 71-space RV park was established on parcel 106-06-014D; however, there are no permits on file to establish this park. Based upon the age of the park and its contiguous nature with the park located at 106-06-014C, staff has determined that no additional permitting will be required to legitimize this portion of the park.
- In 1998, parcel 106-06-014C was conditionally rezoned from MH-54 to MH-36 per Z-98-02 and MDP-98-02.
- In 2002, a Variance (BA3-02-01) was granted to waive screening requirements on the North and South sides of the park and to allow sidewalks on only one side of the internal streets. Also in 2002, a permit was issued to expand to 197-RV spaces.
- In 2007, a Variance (BA3-07-01) requesting a waiver of screening requirements on the East and West sides of the park was denied. Another Variance (BA3-07-07) was approved in 2007 to allow reduced setbacks on corner lots that abut internal streets.
- In 2009, a Variance (BA3-09-01) was granted to allow reduced setbacks within individual spaces.
- Between 1985 and 2012, four additional Non-Residential Permits were issued on parcel 106-06-014C; to construct a 1,680-square foot clubhouse and activity room; for a 2,380-linear foot 6-foot high screening fence; to install a heater in the clubhouse; and to construct a 1,200-square foot storage building with a 350-square foot awning.
- During this time there were four additional Non-Residential Permits issued on parcel 106-06-014D; in 1988 for a 96-square foot, 12-foot high freestanding sign; for a 74-square foot 21-foot high freestanding sign; for electric to illuminate the sign; and for a temporary event (concert) on 10/14/2009. There were also 39 Residential Permits for sheds, decks, patio covers, and utilities issued for the two parcels, three of which were voided.
- In 2012, a Variance (BA3-12-11) was granted to waive the limit on the percentage of RV spaces in a manufactured home park. A non-residential permit to change the park from an RV park to a manufactured home park was also issued and completed.
- In 2013, a Variance (BA3-13-04) was granted for minimum setbacks, site coverage, curbs, gutters, sidewalks, landscaping, percentage of spots for RVs, and gravel parking. A portion of the request to waive screening requirements along the property lines abutting residential properties was denied.
- In 2014 parcels 106-06-014D & 106-06-023B were downzoned from GB to MR-2.







*Above: View of the Park from across Highway 82. Below: View of the substation across the Highway from the park.*



## **VI. SUMMARY AND CONCLUSION**

### **Factors in Favor of Approving the Variances**

1. Approving the Variances would not impact neighboring properties;
2. County government has been engaged in an ongoing effort to make government operations, administration of Zoning and other regulations, and permitting requirements more "business and customer friendly." Allowing the Variances would reinforce this effort without compromising safety or quality-of-life for area residents; and
3. No neighbors have expressed opposition to the request.

### **Factors Against Approving the Variances**

1. None Found

## **VII. RECOMMENDATION**

Based on the Factors in Favor of Approval as Findings of Fact, Staff recommends **approval** of the Variance as requested.

*Sample Motion: Mr. Chairman, I move to approve Docket BA3-15-02, granting the Variances as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact. Furthermore, the Variances shall apply to any current or future permitted use.*

## **VIII. ATTACHMENTS**

- A. Variance Application
- B. Site Plan
- C. Location Map



# COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

## APPLICATION FOR VARIANCE

DESIRING A VARIANCE FROM THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS:

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT \_\_\_\_\_.

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District \_\_\_\_\_

to grant a variance from the terms of the Cochise County Zoning Regulations as follows:

(Note: Complete all the following items. If necessary, attach additional sheets.)

1. Parcel Number: 106-06-014 D & 106-06-023 B
2. Address of parcel: 2207 N. YUCCA DRIVE  
~~2207~~ HUACHUCA CITY, AZ 85616
3. Area of Parcel (to nearest tenth of an acre): 12.91 ACRES
4. Zoning District designation of Parcel: \_\_\_\_\_
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it.

RV PARK SPACES (EXISTING)

6. Describe all proposed uses or structures, which are to be placed on the property.

RV SPACES - FENCING

7. State the specific nature of the variance or variances sought.

TO ALL A VARIANCE ON NORTH SIDE ONLY ON  
FENCE SCREENING

8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in an unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved (See attached Section 2103.02 on variances). Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited above.

A 5 FOOT SPLIT RAIL VINYL FENCE HAS EXISTED FOR OVER 20 YEARS. THIS FRONT OF PARK FENCE ABUTS TO HY 82. IT IS 160' FT WIDE. A BUFFER ZONE OF 20 FT. OF MESQUITE 10' PLUS FEET EXIST ACROSS HY 82 WITH A 15' UTILITY ROAD NO NEED TO SCREEN

9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the Applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

THE ONLY STRUCTURE TO BE SEEN IS A JUVEN SUBSTATION. (TRANSFORMERS & POWER LINES) NO HOMES OR PRIVATE BUILDINGS CAN BE SEEN WITHOUT THIS SCREENING. THERE IS NO IMPACT ON NEIGHBORING PROPERTY IF THIS VARIANCE IS GRANTED.

10. List the name and address of all owners of the Parcel(s) for which the variance is sought.

PROPERTY OWNER

MAIL ADDRESS

JAMES ADAMS	1009 LEROY ST SANDIEGO 92106, CA

The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

SIGNATURE OF PETITIONER

ADDRESS

DATE

GARY L. MINEN 2207 N. IRENA DR. HUACHUCA CITY, AZ 85606 7-14-05

B. J. Miller

APPLICANT'S PHONE NUMBER 619-701-2905

APPLICANT'S EMAIL ADDRESS COCHISE 16 @ AOL. Com

Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred dollars (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Planning Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.

2103.02 Variances

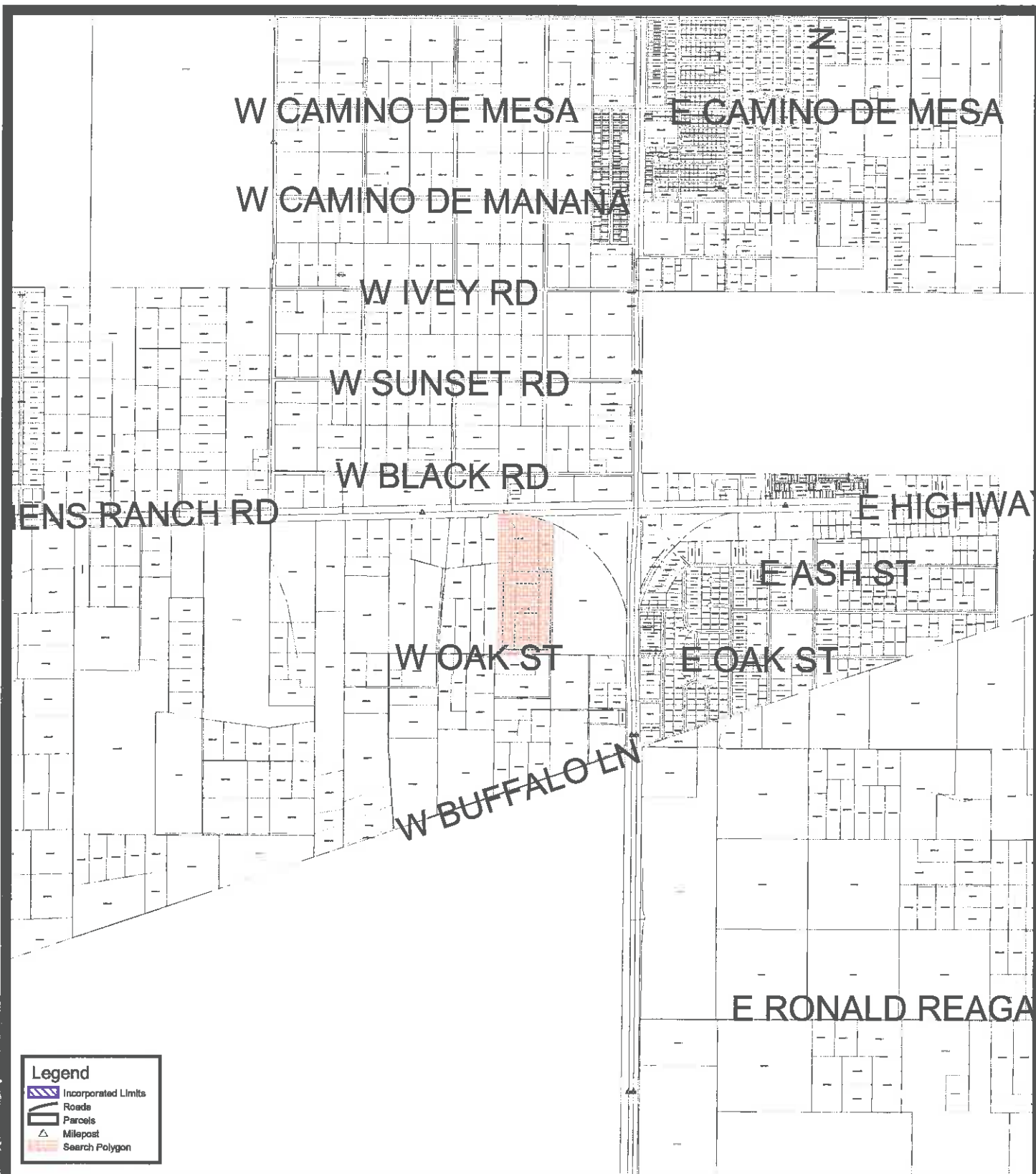
The Board of Adjustment may grant a variance from the terms of these Zoning Regulations when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purposes of the Zoning Regulations will be preserved. It shall be the responsibility of the applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

These zoning regulations are generally intended to yield results that are in compliance with all other applicable laws. A request for a "reasonable accommodation" in these regulations, pursuant to any federal or state housing law or other similar legislation, as may be necessary to afford an equal opportunity to housing under any such law, shall be considered to be an appropriate condition for a variance from the strict application of these zoning regulations. The Board of Adjustment is authorized to grant any such variance, to the extent that any such accommodation is required pursuant to any applicable state or federal law.

Any decision of the Board of Adjustment allowing a variance shall be considered for revocation by the Board of Adjustment if substantial construction, in accordance with the plans for which such variance was granted, has not been initiated within 12 months of the date of approval, building permit issuance, or if judicial proceeding to review the Board of Adjustment's decision has been instituted, 12 months from the date of entry of the final order in such proceedings, including appeals. Additionally, if any of the conditions of the variance approval are not complied with within 12 months or within the time period set by the Board, it shall be revoked after 30 days notice to the owner and applicant, unless a request for a review hearing before the Board of Adjustment is made by the applicant within this 30 day appeal period. The Board of Adjustment may grant reasonable extensions to the time limits upon a hearing pursuant to a timely written request by the applicant.

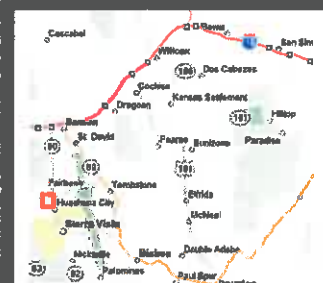






**Legend**

- Incorporated Limits
- Roads
- Parcels
- Milepost
- Search Polygon



## BA3-15-02 (Quail Ridge) Location Map

This map is a product of the  
Cochise County GIS  
Information Technology Dept.

